



'Reportable'

CASE NO.: CC 19/2008

IN THE HIGH COURT OF NAMIBIA

In the matter between:

THE STATE

and

JECKONIA DIMBULUKWENI HAMUKOTO

CORAM: NDAUENDAPO, J

Heard on: 2011 August 30

Delivered on: 2011 September 28

SENTENCE

NDAUENDAPO, J: [1] This Court convicted the accused, Jeckonia Dimbulukweni Hamukoto, on three counts of murder, three counts of attempted murder, pointing of a firearm and negligent discharge of a fire arm in public.

[2] It is now my duty to sentence you for the crimes you committed. In terms of our law there are three factors to be taken into account, namely:

- (1) your personal circumstances;
- (2) the nature of the crimes and;
- (3) the interest of society.

See: S v Zinn 1969 (2) SA 537 (A) at 540 G

At the same time, the sentence to be imposed must satisfy the objectives of punishment which are:

- (1) prevention of crime;
- (2) deterrence or discouragement of the offender and would be offenders;
- (3) rehabilitation or reform of the offender; and
- (4) retribution of the imposition of appropriate punishment for the offence committed.

[3] I have considered what you told the Court in mitigation of sentence. That you are 41 years of age and a first offender. You are a father of four minor children. You are a registered nurse and was in the employment of the Ministry of Health and Social Services since 1996. I have also taken into account the number of years spend in custody as a trial awaiting prisoner, namely four years and nine months. However, I must hasten to add that aggravating circumstances in this case far outweigh your personal circumstances.

[4] With regard to the convictions of murders and attempted murders, you testified that you acted in private defence, which I rejected. You told this Court in no uncertain terms that you are not remorseful for your actions, you only feel bad about it.

[5] You took the lives of three innocent people and seriously injured three others and their only sin they committed, according to you, was the theft of your cellphone.

[6] Ms Jacobs for the State submitted that your convictions for murder and attempted murder should attract the severest sentences for the reasons, *inter alia*, that you shot unsuspecting victims in a callous manner.

[7] What makes your actions more reprehensible is the fact that on that fateful day, you armed yourself not only with the gun (pistol) and a fully loaded magazine, but you had an extra fully loaded magazine in your pocket as if you were going on a hunting trip. The irony is that some of the witnesses testified that they knew you as 'Doctor', but instead of saving their lives, you took the lives of the victims in the most callous manner. You have not shown any remorse whatsoever for your actions and for that reason I shall disregard the period you have spent in custody awaiting trial.

[8] To those who lost their loved ones at the hand of the accused, (and indeed to the society at large), this Court wants to send a strong message that murderers will be severely punished for their actions.

[9] In Walter Carelse and Another Case Number CC 11/022) Damaseb, JP said the following:

“In callous murder such as the ones under consideration, an exemplary sentence is called for in order not only to reflect the shock and indignation of interested persons and of the community at large, but also to serve the deterrent as well as just retribution objectives of punishment.

[10] Having regard to what I said above, I sentence the accused as follows:

Count 1: - for the murder of Erastus Jonas 30 years imprisonment.

Count 2: - for the murder of Erastus Boni Shuudeni 30 years imprisonment.

Count 3: - for the murder of Festus Auhwe Eita 30 years imprisonment.

Count 4: - attempted murder on Primus Ashipala 10 years imprisonment.

Count 5: - attempted murder on Timo Kandjumbwa 10 years imprisonment.

Count 6: - attempted murder on Joel Hango 10 years imprisonment.

It is ordered that each of the 10 years imposed on counts 4,5, and 6 shall be served concurrently with the sentences of 30 years imposed in counts 1,2, and 3.

Count 7: - pointing of a fire arm 1 year imprisonment. It is also ordered that the 1 year imprisonment should be served concurrently with the sentences imposed in counts 1, 2, and 3.

Count 8: - Discharge of a firearm in public, one year imprisonment also to be served concurrently with the sentences imposed in counts 1, 2 and 3.

[11] In sum, the accused is sentenced to an effective imprisonment term of 90 years.

NDAUENDAPO, J

COUNSEL ON BEHALF OF STATE:

Ms. Jacobs

Instructed by:

The Prosecutor General

COUNSEL ON BEHALF OF THE RESPONDENT:

Mr. Wessels

Instructed by:

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